



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, 9 जनवरी, 1984/19 पौष, 1905

हिमाचल प्रदेश सरकार

LABOUR DEPARTMENT

NOTIFICATION

Shimla, the 20th December, 1983

No. 2-8/83-Lab (Dup).—In exercise of the powers vested in him under section 17 (1) of the Industrial Disputes Act, 1947, the Governor, Himachal Pradesh, is pleased to publish the following awards of the Himachal Pradesh Labour Court, Shimla-2 in the Official Gazette:—

Before the Presiding Officer, Labour Court, Himachal Pradesh

Case No. 71/82

Shri Chuni Lal

...Applicant.

vs.

Management of New Snow View Transport Pvt. Ltd., Dharamsala

...Respondent.

Present: Shri P. L. Bery AR of the Applicant.

Shri Subhash Chand Accountant on behalf of the Respondent.

AWARD

The dispute between Shri Chuni Lal and the Respondent Management has been referred to this Court vide notification dated 20-7-1982. The following question has been referred:—

“Whether the termination of services of Shri Chuni Lal by the Respondent Management of New Snow View Transport (P) Ltd., Dharamsala was justified and in accordance with rules. If not to what relief he is entitled to ?”

Shri Chuni Lal who was working as Conductor with the Respondent Management has filed the claim petition and has challenged his termination of services.

The Respondent Management has filed the reply and has resisted the claim. From the averments of the parties the following issues arise and are framed by me on 17-4-1983:—

1. Whether the services of the petitioner were terminated as alleged. If so, its effect? OPP
2. Whether there was any agreement dated 3-9-81 between the Respondent Management and its employees if so its effect? OPP
3. Whether the petitioner has left the services of the respondent of his own accord and his services have not been terminated on 21-12-81 as alleged? OPR
4. Whether the petitioner is gainfully employed after 21-12-81? OPR
5. To what relief if any the petitioner is entitled ?

Shri Chuni Lal has appeared as PW-I and no other witness appeared. On the last date of hearing, there was a talk about compromise between the parties and the proceedings were adjourned for today. The parties have come to a compromise and I have recorded the statement of AR of the parties. According to Shri Subhash Chand AR of the Respondent, Shri Chuni Lal has been taken back in service and has been paid his dues. The petitioner has not joined the duties. Shri P. L. Bery has also made the statement that the parties have arrived at a compromise.

From the statement of the AR of the parties, it appears that the parties have arrived at a lawful compromise. The dispute has been settled outside the Court. The order terminating the services of petitioner has been revoked by the Respondent Management. The petitioner has also been paid his dues. He has not joined his duties also but has been directed to report for duty immediately. No further proceedings are required to be taken by me. There is no necessity of recording the findings on each and individual issues framed in this case. I answer the reference in the affirmative. The parties are left to bear their own cost of these proceedings. Intimation may be sent.

Announced on the 7th day of August, 1983.

Sd/-
S. S. KANWAR,
Presiding Officer,
Labour Court.
7-8-1983.

BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH

Case No. 43/83

Shri Baldev Ex-Guide

...Applicant

vs.

Bright Land Hotel, Shimla

...Respondent

Present;—Shri H. L. Sethi AR of the Applicant.
Shri Surinder Singh, Prop. Bright Land Hotel.

AWARD

This reference has been received from the Government *vide* notification No. 8-9/80-Shram, dated 30-5-1983. This dispute relates to the termination of services of Shri Baldev Ex-Guide Bright Land Hotel by the management of Bright Land Hotel. Both the parties were summoned and appeared on 7-8-1983. The AR of the Petitioner has not appeared to-day. This case was called many times since morning. It is 1.25 p.m. now but no body has appeared for the petitioner. No claim petition has been filed. Shri Surinder Singh, Prop. Bright Land Hotel has appeared. *Ex-parte* proceedings has been taken against the petitioner. In the absence of the petitioner, the dispute referred to me cannot be determined.

The proceedings are dropped in the absence of the petitioner.

Announced on the 21st day of August, 1983.

Sd/-
S. S. KANWAR,
Presiding Officer,
Labour Court.

BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH

Case No. 67/82

Shri Bal Krishan

...Applicant

vs.

Management of New Snow View Tpt. (P) Ltd., Dharamsala

...Respondent

Present;—Shri P. L. Bery AR of the Applicant.
Shri Subhash Chand Accountant on behalf of the Respondent.

AWARD

The dispute between Shri Bal Krishan and the Respondent Management has been referred to this Court *vide* notification dated 14-9-1982. The following question has been referred:—

“Whether the termination of services of Shri Bal Krishan by the Respondent Management of New Snow View Transport (P) Ltd., Dharamsala was justified and in accordance with rules. If not to what relief he is entitled to?”

Shri Bal Krishan who was working as Booking Clerk with the Respondent Management has filed the claim petition and has challenged his termination of services.

The respondent management has filed the reply and has resisted the claim. From the averments of the parties the following issues arise and are framed by me on 17-4-1983:—

1. Whether the Respondent Management has created the post of Booking Clerk, after the retrenchment of the petitioner in April, 1980 and had employed persons against this post. If so its effect ? (OPP)
2. Whether the retrenchment of the petitioner by the Respondent Management is vitiated by fraud and misrepresentation as alleged. If so its effect ? (OPP)
3. Whether the petitioner is gainfully employed after the retrenchment. If so its effect ? (OPR)
4. Whether the petitioner approached the Respondent for his re-employment. If so its effect ? (OPP)
5. Whether the petitioner is entitled to re-employment under section 25 of the Industrial Disputes Act as alleged ?
6. Relief.

Shri Bal Krishan has appeared as PW-1 and no other witness appeared. On the last date of hearing, there was a talk about compromise between the parties and the proceedings were adjourned for today. The parties have come to compromise and I have recorded the statement of AR of the parties. According to Shri Subhash Chand AR of the Respondent, Shri Bal Krishan has been taken back in service and has been paid his dues. The petitioner has joined the duties. Shri P. L. Bery has also made the statement that the parties have arrived at a compromise.

From the statement of the AR of the parties, it appears that the parties have arrived at a lawful compromise. The dispute has been settled outside the court. The order terminating the services of petitioner has been revoked by the Respondent Management. The petitioner has also been paid the dues. He has joined his duties also. No further proceedings are required to be taken by me. There is no necessity of recording the findings on each and individual issues framed in this case. I answer the reference in the affirmative. The parties are left to bear their own cost of these proceedings. Intimation may be sent.

Announced on the 7th day of August, 1983.

Sd/-
S. S. KANWAR,
Presiding Officer,
Labour Court.
7-8-1983

BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH,
SHIMLA

Case No. 6 of 1976

Suresh Kumar

vs.

1. Secy. Himachal Pradesh State Electricity Board, Shimla
2. Resident Engineer Bassi Power House Construction Division Jogindernagar, Mandi.

Present:—Shri Suraj Singh Pathania AR of the Petitioner
Shri Surinder Pal Sharma, Labour Officer, Himachal Pradesh State
Electricity Board AR of the Respondent.

AWARD

Suresh Kumar was employed as a Beldar by the respondent management during the period 1969 to 1975. His services were terminated. No enquiry was held. No chargesheet has been served. He raised a dispute and the same has been referred to this court *vide* notification dated 29-3-1976. The following question has been referred:—

“Whether the action of the Resident Engineer, Bassi Power House Division, Himachal Pradesh State Electricity Board Jogindernagar in terminating the services of Shri Suresh Kumar Mason without conducting any enquiry and issuing any termination order is justified? If not to what relief and exact amount of compensation he is entitled to?”

1. The petitioner has put in the claim wherein he has alleged that he was employed as a Mason. He worked with the respondent management during the period 1969 to 1975. He alleges that his services were terminated without holding any enquiry and as such his termination is illegal, void and inoperative. He further states that workers junior to him have been retained in service. He has prayed that the order of his termination of his services be revoked and set aside and he be reinstated and be allowed all the benefits which have accrued to him because of his continuous service.

2. The respondent management has filed the reply and has controverted all the pleas raised by the worker. According to them he had not been in continuous service. He was a daily waged worker and as such his services could be terminated at any time. It has further been stated that the petitioner is not entitled to reinstatement or any other benefit.

3. The respondent was permitted to amend the written statement and was allowed to raise the additional plea. It has been stated by him that immediately after relinquishing his casual leave of his own accord the petitioner, took up a job with the S. D. O. Telephone, Mandi and is so employed there. This allegation has been specifically denied by the petitioner.

4. From the averments of the parties, the following issues arose and have been framed:—

1. Whether the Resident Engineer, Bassi Power House Respondent No. 2 terminated the service of the petitioner in an illegal, *mala fide* and prejudice manner without affording any opportunity to the petitioner. If so, its effect? OPP
2. Whether the petitioner was a casual worker for a specified purpose as alleged. If so, to what effect? OPP
2. (a) Whether the petitioner, Suresh Kumar took up the job with S. D. O. Telephone, Mandi immediately after relinquishing his job with the respondents and is so employed there till date and if so, to what effect? OPR
2. (b) Whether the applicant relinquished the job of his own accord? OPR
3. Relief.

FINDINGS

Issues No. 1 & 2.—in support of these issues, the petitioner has appeared as P. W. 2 and has examined Perma, P.W.-3. He has also tendered in evidence Ex P-1 relating to his service record maintained by the respondent management. The certificate of his good work is Ex. P-2.

2. Suresh Kumar as PW-2 has clearly stated that he had been working with the respondent management since 1969 till his services were terminated on 21-3-1975. He has asserted that he has continuously served with the respondent management. He has been cross examined at length but nothing has been brought out to discredit him. He has also attempted to get the record of his service produced from the respondent management but has not been

successful. Shri S. M. Sood, the Law Officer, of the respondent stated as PW-1 on 17-7-1976 that the records summoned from the respondent will be produced on the next date of hearing. But, these records have not been produced. Adverse inference therefore is to be drawn against the management. Had this record been produced it must have demolished the case set by the respondent.

3. Perma PW-3 has stated that Suresh Kumar petitioner was his co-employee and had been working as a Clerk in the project since the year 1969 and his services were terminated in March, 75, and that he never mis-conducted himself.

4. From this evidence on record, the petitioner has proved that he had been in the service of the respondent management from 1969 to the year 1975 till his services were terminated.

5. In rebuttal the respondent has examined B. L. Gupta, Junior Engineer RW-1, Balbir Singh S. D. O. RW-2, R. K. Vyas, Junior Engineer, Nagrota RW-3, Bala Datt Sharma RW-4, N. P. Tandon RW-5. From the statements of the witnesses it is clear that the petitioner was employed on daily wages on the basis of Muster Rolls from July, 1969 to March, 1975. This evidence supports the case set up by the petitioner, that he had been in continuous service of the respondent management from July, 1969 to March, 1975.

6. The authorised representative of the respondents contends that the petitioner was employed as a casual worker on daily wages and therefore his services could be terminated at any time and that such a termination does not entitle the petitioner to any benefit. This contention of the authorised representative of the respondent has no force. The term continuous service has been defined in section 25-B of I. D. Act, 1947. The service of a workman is deemed to be continuous if he had worked for 240 days in a year. There is no distinction between a regular employee or a casual worker or a temporary employee.

7. In view of what has been said above I held that the petitioner was a worker as defined under section 2 of I. D. Act. He is entitled to all the benefits which are due to him as such. His services have been terminated illegally. Nothing has been brought out to show that he was not a fit person to be kept in employment. Admittedly no enquiry worth the name has been held before the termination of the services. This termination of the services of the petitioner is retrenchment. He has not been served with the notice nor his retrenchment benefit have been paid to him. The retrenchment is therefore illegal and is liable to be quashed. I do so accordingly. Reference in this regard may be made to AIR 1982 SC 1150 Delhi Cloth General Mills Ltd. vs. Shambhu Nath AIR 1980 SC 1219 Santosh Gupta vs. State Bank of Patiala and (1982) 1 L L J 330 L Robbet D' Sowzer vs. Executive Engineer, Southern Railway. The petitioner is entitled to all the service benefits. He will be deemed to be in service in spite of the termination order. He is, therefore, entitled to the benefits which flow from the continuous service. I decide both these issues accordingly in favour of the petitioner and against the respondent.

Issue No. 2 (a).—1. R. P. Kala S. D. O. Telephone Mandi has appeared as RW-6. He has stated that the petitioner was employee as a casual mazdoor on 1-11-1975. He was paid Rs. 5/- per day. According to him he has now been regularised as a Mistry w. e. f. 14-2-1978. There is no rebuttal to this evidence.

2. Lal Chand RW-4 is the Accounts Clerk of the Divisional Engineer, Telephones, Dharamsala. He has also stated that the petitioner joined the telephone department on 1-10-1975, as daily waged worker.

3. From this evidence on record it is clear that the petitioner has joined the telephone department in October, 1975. First as a daily waged worker and thereafter on regular basis. I decide this issue accordingly in favour of the respondent and against the petitioner.

Issue No. 2 (b).—There is no evidence on record to show that the petitioner has relinquished his job of his own accord. This issue is, therefore, decided against the Respondent and in favour of the Petitioner.

RELIEF

In view of the findings recorded above, the petitioner will be deemed to be in continuous service from July, 1969 to March, 1975. He is entitled to all the benefits of service including Pay, Allowances and other benefits such as compensatory leave, earned leave, Gratuity, Provident Fund and Retrenchment Compensation etc. etc. The petitioner has not detailed his claim. If his claim is not paid by the respondent within a period of one month from the date of notification of this award, he may take recourse of law. The petitioner has faced this protracted trial, I, therefore, allow him Rs. 200/- (Rupees two hundred only) as cost of these proceedings.

Announced.
DATED 21ST AUGUST, 1983.

Sd/-
Presiding Officer,
Labour Court, H.P., Shimla.

BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH
SHIMLA-171002

Case No. 75/78

Shri Nihal Chand

...Applicant/Petitioner

Versus

1. The Executive Engineer Pan Stock Construction, Works Division, Jogindernagar, District Mandi, Himachal Pradesh.
2. The Superintending Engineer, Civil Circle, PSEB, Jogindernagar.
3. The Chairman, P. S. E. B., the Mall Patiala, Punjab

...Respondents.

Present: Shri Dhani Ram/Suraj Singh Pathania AR of the Petitioner.
Shri Nichhettar Singh, Labour Welfare Officer, P. S. E. B., on behalf of the Respondents.

AWARD

Shri Nihal Chand petitioner was employed as a Driver with the Respondent Management and was working as such in Shanan Construction Division, Jogindernagar at the relevant time. He has joined the services of the Respondent in May, 1974. Before joining service, he was in the Army where he had put in 21 years of service.

On 16-1-1977 he was on weekly rest to which he is entitled to under the standing orders governing the condition of service with the Respondent Management. However, he was called back on duty. He declined to join the duty on the rest day on the ground that his mother was lying seriously ill. He refused to drive the vehicle on the rest day. This was taken as an act of gross indiscipline by the Respondent. A show cause notice was served on him to which he had replied and denied all the allegations levelled against him. But inspite of this no enquiry worth the name was held by the Respondent. The petitioner was suspended on 18-1-1977 and was transferred from Jogindernagar to Barot during the suspension period. The services of the petitioner were terminated on 15-3-1977 although no enquiry was held.

It appears the petitioner had approached the authorities of the office of the Labour Commissioner and attempted to get redress. The Government has referred the dispute to this Court *vide* its notification dated 21-4-1978. The following question has been referred to this Court:—

“Whether the services of Shri Nihal Chand have been terminated illegally and/or unjustifiably and if so, to what relief is he entitled and what directions are necessary in this respect?”

The Respondent Management had filed a reply. It had been contended that the order terminating the services of the petitioner was valid and binding. However, it has been admitted that no enquiry has been held in this case before termination of services of the petitioner. Para No. 6 of the reply of Respondent is material and is stated herein below in *extenso*:—

“That the version of the plaintiff contained in para-6 of his application is incorrect and without base. Opportunity was given to him twice—first by way of charge sheet and secondly by issuing a show cause notice and he never asked of any enquiry which naturally implied that he did not require any enquiry in the case. Further more in this case enquiry was not considered essential as the misconduct of the plaintiff had stood established beyond doubt. Thus the orders of respondent No. 1 are in order.”

From the averments of the parties the following issues arose and have been framed on 22-6-1979:—

1. Whether the applicant Shri Nihal Chand's services were terminated with effect from 15-3-1977 by the respondents illegally without affording him any opportunity to defend himself? OPP
2. Whether the applicant's services were terminated for dis-obedience of orders validly? OPR
3. Whether the applicant was not paid subsistence allowance during suspension period. If so, to what effect? OPP
4. Whether the headquarter of the applicant was fixed at Barot *malafide* and prejudicially and if so, to what effect? OPP
5. Whether the applicant is entitled for re-instatement and other benefits of subsistence allowance, salary/amount etc.? OPP
6. Relief

FINDINGS

Issue No. 1.—The petitioner has appeared as PW-4 and has categorically stated that his services were terminated by the Respondent Management on 17-3-1977 without holding any enquiry whatsoever. He has further stated that charge-sheet was served upon him and he had replied to it. The Respondents do not clear that they had held any enquiry against the petitioner for alleged mis-conduct. In Para No. 6 of the reply as has been noticed above they have clearly admitted that no enquiry worth the name has been held. Thus the respondents have taken shelter under the plea that the petitioner never asked for any enquiry being held against him and also that the holding of enquiry was not considered essential as the misconduct of petitioner stood established. I see absolutely no force in this contention raised by the Respondent Management. The petitioner had contested the show cause notice served on him. In the circumstances of the case there was no escape to the Respondent. The enquiry against the petitioner should have been held. Further more the Respondent has not brought on record any material to show that the petitioner was guilty of grave misconduct justifying the dispensing with his services without the holding of enquiry. Under the Standing Orders, the copy of which has been placed on the file of this case and is on record at pages 23 to 35. Sub-Clause-(5) of Rule 17(2) of the Standing

Orders specifically provide that no order of dismissal, removal or termination shall be made unless the worker has been given full opportunity to defend his case in the principals of natural justice. For any other kind of punishment, it shall be necessary to get the explanation of the employee in view of the provisions of the Standing Orders applicable to the workmen. I think the departmental enquiry should have been held by the Respondent Management. The termination of services of petitioner without holding the enquiry is clearly not justifiable. The empty formality of serving the show cause notice and getting reply from the petitioner is not at all a substitute for the enquiry. The action taken against the petitioner in this case appears to be *malafide*. In view of these considerations, I decide this issue accordingly in favour of the petitioner and against the Respondent and hold that the services of the petitioner had been illegally terminated and no enquiry had been held against him and no opportunity had been given to him to explain his position.

Issue No. 2.—The charges of mis-conduct against the petitioner is that he has not obeyed the orders of Section Officer who appeared as RW-3 for joining duty even on the Rest Day. In order to justify the order of termination, the Respondent have examined three witnesses. But I think the statements of all these 3 witnesses are not helpful to the Respondent in view of the provisions of clause-14 of the Standing Orders. Relevant Standing Order reads as under:—

- “Weekly rest.**—(1) A workman shall be granted paid rest in a fixed day, if he has worked for four days or more in a week inclusive of the days was on leave, with or without wages. In the interest of work, the fixed rest day may be changed by the Sub-Divisional Officer in-charge at his description.
- (2) A workman may be permitted to prefix & suffix national and religious holidays, with a weekly rest day.
- (3) Rest in lieu of over time work on holidays, previous weekly rest deferred by the Sub-Divisional Officer in-charge in the interest of the work and holidays on national and religious occasions and leave with wages shall count towards working days for the purpose of the weekly rest.

According to the provisions of the Standing Orders, The Petitioner could have been called back on duty after fixed rest day i.e. 16-1-1977 was changed by the Sub-Divisional Officer in-charge of the division who will also fix the other day of the rest in lieu of weekly rest which he had cancelled. The Sub-Divisional Officer in-charge of Shanan Construction Division where the petitioner was working has not been examined. Either the Sub-Divisional Officer or any other officer higher in rank to him, could change the rest day and substituted with another rest day. But nothing has been done in this regard.

Romesh Kumar RW-3 is the Section Officer who claims to contact the petitioner on 16-1-1977 for calling him back on duty. He had stated that he assured the petitioner that he would get him next Monday as the rest day. This assurance on behalf of Romesh Kumar RW-3 has no value when the Standing Orders are looked into. It is only the Sub-Divisional Officer who can change the Rest Day. Romesh Kumar Section Officer has no authority to do so. This clearly establishes that the action taken against the petitioner by the respondent was not justifiable even under the Standing Orders. The petitioner has not disobeyed any valid orders. Romesh Kumar was definitely not an authority to change the rest day. The Executive Engineer or the Superintending Engineer concerned can pass necessary orders changing the rest day of the petitioner and in the absence of such order no action can be taken against the petitioner. He has not disobeyed any lawful or valid order passed in accordance with the Standing Orders.

Even assuming that the petitioner had refused to join back duties on rest day, it can be justified. Admittedly mother of petitioner was lying seriously ill. This fact has been admitted by Romesh Kumar RW-3 that the mother of petitioner was ill and he informed him so when he was asked to take the vehicle to Barot on 16-1-1977. The petitioner has also stated while appearing as PW-4 that his mother was ill on 16-1-1977 and therefore he could not take the vehicle to

Barot. He has also examined Sukh Dev Sharma PW-1, Mast Ram PW-2 and Sham Singh PW-3 to prove this fact.

In view of these circumstances I decide this issue in favour of petitioner and against the respondent and hold that the service of the petitioner have not been terminated validly. No enquiry has also been held. No opportunity was given to him to defend himself.

Issue No. 3.—The petitioner was admittedly suspended on 18-1-77. As PW-4, the petitioner has stated that he had not been paid any subsistence allowance for the period of suspension upto 15.3.77 the date of termination of his services. The respondent had led no evidence to show that any subsistence allowance has been paid to the petitioner during this period. I therefore, decide the issue accordingly in favour of petitioner and against the respondent.

Issue No. 4.—During the suspension period, the petitioner had been transferred to Barot. There had been no reasons for this transfer. The petitioner had an ailing mother to the knowledge of the respondent. Under the Standing Orders the petitioner may attend his office or not and could leave his headquarter without asking for leave during suspension. He is required only to inform the concerned authority and leave the station without getting his leave sanctioned. In the circumstances of this case, I find no basis for the transfer of the petitioner from Joginder-nagar to Barot during the suspension period. It was unjustifiable and prejudicial to him. I decide this issue accordingly. But the petitioner is not entitled to get any relief because of this transfer, in these proceedings.

Issue No. 5.—The order terminating the services of the petitioner is not valid and cannot be justified. The petitioner is entitled to the re-instatement from the date when his services were terminated *i. e.* 15.3.77. He will be deemed to continue to be in service in spite of the orders of termination of his services. As a consequence of it, he is entitled to full wages with all allowances and all other benefits of service *w. e. f.* 18.1.1977 till to date. He is also entitled to the seniority and benefits of continuous service. The period from 18.1.77 till to date when he is out of service, is to be counted for all the benefits relating to and arising out of his service as if he was on duty. I decide the issue accordingly.

RELIEF

In the result, I answer the question referred to me in the affirmative. The orders terminating the services of the petitioner will be deemed to be in service continuously in spite of the orders dated 15.3.1977. He is entitled to full wages during the period from 18.1.77 till to-day and all other benefits of services which flow from the continuity of the service of the petitioner with the respondent including increments, crossing of Efficiency Bar, Provident Fund, Gratuity, leave etc. etc. The petitioner will report for duty and the respondent are directed to allow him to join duties and fix his pay and other emoluments in view of the award. The respondent are further directed to make the payment to the petitioner of his full wages and other emoluments within one month of this award.

The petitioner is only a driver and is facing the difficulty on account of termination of his service *w. e. f.* 15.3.77. He is without any wages *w. e. f.* 18.1.77 when he was suspended. I think, the petitioner should be allowed the costs of these proceedings which are assessed at Rs. 200/- only.

Announced on the 31st day of July, 1983.

Sd/-
S. S. KANWAR,
Presiding Officer,
Labour Court, H.P.

BEFORE THE PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH
SHIMLA

Case No. 10/80

Shri Ishwar Datt

...Applicant.

Versus

Managing Director, Himachal Tourism Corpn., Shimla-171001

...Respondent.

Present.—Shri Ishwar Datt applicant.

Shri O. P. Sood, Company Secretary, Himachal Pradesh Tourism Corporation, Shimla on behalf of the Respondent.

AWARD

This case has been called many times since morning. It is 2.30 p.m. The petitioner is not present. The perusal of the record shows that the petitioner had not been able to come for many hearings held by this Court between the period 6-5-1982 to 22-5-1983. During this period eleven adjournments had to be granted for the service of the petitioner. Ultimately a reference was made to the Government for effecting the service on the petitioner. It appears that service was effected by the Government and the petitioner appeared on 3-7-1983. This case had been adjourned for to-day. The petitioner is again absent.

The services of the petitioner had been terminated by the Respondent Management on 30-6-1979. The question referred to this Court is,—

“Whether the termination of services of the Petitioner by the Respondent Management is legal and in accordance with rules. If not to what relief the Petitioner is entitled to.”

There is no evidence brought on record by the petitioner that the termination of services by the Respondent Management was illegal, invalid and improper and not in accordance with the law and Standing Orders governing the condition of services.

From the conduct of the petitioner in the prosecution of his claim in this Court, it is apparent that he is not at all interested in pressing his claim for the reasons best known to him. It is for the petitioner to bring on record the material to show that his services had been illegally terminated. He has failed to do so. In these circumstances, I have no alternative but to answer the question referred to me in the negative. The services of petitioner has been validly terminated by the Respondent Management. The reference is answered accordingly. No order as to costs.

Announced on the 31st day of July, 1983.

Sd/-
S. S. KANWAR,
Presiding Officer, Labour Court,
Himachal Pradesh
31-7-1983

AWARD

Present.—Shri H. L. Sethi A. R. of the applicant.

Shri A. J. Idicula. Personnel Officer, and A. R. of the Respondent Management.

The parties have arrived at a compromise. The photostate copies of the compromise have been filed. The parties do not want to prosecute this case and the other connected cases which have been fixed for to-day. The details of those cases are mentioned below:—

- | | |
|---|-------|
| 1. M/S Eicher Farm Machinery Ltd., Parwanoo
vs. Shri Daljit Singh. | 95/83 |
| 2. M/S Eicher Farm Machinery, Parwanoo
vs. Shri Netar Lal. | 96/83 |
| 3. M/S Eicher Farm Machinery, Parwanoo
vs. Dharshan Kumar. | 92/83 |
| 4. M/S Eicher Farm Machinery, Parwanoo
vs. Jagdish Chand. | 93/83 |
| 5. M/S Continental Auto Ancillary
vs. Satnam Singh. | 94/83 |
| 6. M/S Continental Auto Ancillary
vs. Kulwant Singh. | 65/83 |
| 7. M/S Continental Auto Ancillary
vs. Balram Kumar. | 63/83 |
| 8. M/S Continental Auto Ancillary
vs. Balwan Singh. | 64/83 |

In view of this compromise the proceedings in all these 9 cases are dropped.

In view of the compromise the reference need not be answered. An intimation may be sent to the Government. No order as to costs of the proceedings.

Announced.

Sd/-
Presiding Officer, Labour Court.
4-9-83.

By order,
Sd/-
Financial Commissioner-cum-Secretary,
Labour.